

# NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

## Env-Ws 412

Adopted 11-20-96

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## **PART Env-Ws 412 REPORTING AND REMEDIATION OF OIL DISCHARGES**

Statutory Authority: RSA 146-A:11-C

Env-Ws 412.01 Purpose. The purpose of these rules is to establish procedures and requirements for notification, reporting, response actions, and investigations for sites where discharges of oil have occurred.

Env-Ws 412.02 Applicability. Any responsible party or other person having knowledge of a discharge or spillage of oil into the surface waters and groundwaters of the state, or in land area where the oil will ultimately seep into groundwater or surface water shall report such discharge to the department immediately, unless all of the following conditions are met:

- (a) The discharge is less than 25 gallons;
- (b) The discharge is immediately contained;
- (c) The discharge and contamination is completely removed within 24 hours; and
- (d) There is no impact to groundwater or surface water.

Env-Ws 412.03 Definitions.

(a) "Contamination" or "contaminated" means the results of discharge of oil into groundwater, surface water or soil.

(b) "Discharge" or "spillage" means the release or addition of any oil to land, groundwater, surface water or subsurface utility.

(c) "Department" means the New Hampshire department of environmental services.

(d) "Free product" means oil which exists as a separate phase or layer of greater than 1/8" thickness on water.

(e) "Groundwater" means "groundwater" as defined in RSA 146-A:2, I-c, namely "subsurface water that occurs beneath the water table in soils and geologic formations."

(f) "Initial site characterization" means a preliminary assessment following a discharge which is performed to collect information regarding the subsurface conditions of a site, the extent of the discharge, and potential receptors in the area.

(g) "Oil" means "oil" as defined in RSA 146-A:2,III namely "petroleum products and their by-products of any kind, and in any form including, but not limited to, petroleum, fuel, sludge, crude, oil refuse or oil mixed with wastes and all other liquid hydrocarbons regardless

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of specific gravity and which are used as motor fuel, lubricating oil, or any oil used for heating or processing. The term "oil" shall not include natural gas, liquefied petroleum gas or synthetic natural gas regardless of derivation or source."

(h) "PAH" means polyaromatic hydrocarbons.

(i) "Potential receptor" means any living organism or environmental medium which is in the pathway of contamination from a discharge.

(j) "Ppm" means parts per million.

(k) "Receptor" means a living organism or an environmental medium which is exposed to contamination from a discharge.

(l) "Responsible party(ies)" means any person who is strictly liable for a discharge of oil under RSA 146-A:3-a.

(m) "Site" means the place or location where a discharge is known or suspected to have occurred.

(n) "Surface water" means "surface water" as defined by RSA 146-A:2,VI-b, namely "streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes or ponds bordering on the state, marshes, water courses and other bodies of water, natural or artificial."

(o) "TPH" means total petroleum hydrocarbons.

(p) "VOC" means volatile organic compounds.

Env-Ws 412.04 Notification.

(a) Persons notifying the department of confirmed or suspected discharges of oil shall provide as much of the following information as is available:

(1) The name and phone number of the person notifying the department;

(2) The location of the discharge site;

- (3) The date and time of the discharge;
- (4) The type and amount of oil discharged;
- (5) The name(s) and phone number(s) of the party(ies) potentially responsible for the discharge;

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- (6) How close to surface water the discharge occurred;
- (7) Whether a clean-up contractor has been contacted or hired, and if so, the name, address and telephone number of the contractor; and
- (8) The cause of the incident.

(b) If the spill occurs during normal working hours, notification shall be directly to the department. If the reporting party is unable to contact the department, notification shall be to the state police communications center.

Env-Ws 412.05 Initial Response Action. When a discharge occurs, any responsible party shall take the following actions immediately:

- (a) Assess the situation and evaluate fire, health and safety hazards;
- (b) Stop the discharge;
- (c) Notify the department or state police as required under Env-Ws 412.04;
- (d) Contain and remove all discharged oil and oil-contaminated debris;
- (e) Stockpile and/or dispose of discharged oil and oil-contaminated materials in accordance with all applicable local, state and federal rules;
- (f) Monitor and mitigate fire, health and safety hazards posed by vapors or free product;
- (g) Take any action necessary to prevent environmental damage from the discharge; and
- (h) Investigate to determine the possible presence of free product.

Env-Ws 412.06 Abatement Measures.

(a) If the presence of vapors which pose an imminent threat to public safety are identified at any stage of the investigation, the responsible party(ies) shall give verbal

notification of the analytical results to the department immediately after discovery and, within 5 days, shall submit the air quality results in writing to the department, the department of health and human services' division of public health services (DHHS-DPHS) and the owner of the property.

(b) The responsible party(ies) shall implement abatement measures to eliminate explosive situations and reduce the concentration of contaminants in the air to acceptable levels established by a risk assessment approved or performed by the DHHS-DPHS in

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accordance with RSA 125-H:3, I and II. Prior to implementing the abatements measures, the responsible party(ies) shall notify the department and the owner(s) of the property(ies) of the proposed action.

(c) If contamination is detected in drinking water well(s) at any stage of the investigation, the responsible party(ies) shall give verbal notification of the analytical results to the department immediately after discovery and, within 5 days, shall submit the water quality results, in writing, to the department, the DHHS-DPHS and the owner(s) of the drinking water well(s).

(d) The responsible party(ies) shall implement abatement measures to reduce the contaminants to acceptable levels established by a risk assessment approved or performed by the DHHS-DPHS in accordance with RSA 125-H:3, I and II. Prior to implementing the abatement measures, the responsible party(ies) shall notify the department and the owner(s) of the drinking water well(s) of the proposed action.

#### Env-Ws 412.07 Free Product Removal.

(a) At sites where free product is present, responsible parties shall provide verbal notification of the existence of free product to the department immediately after discovery and provide written notification within 5 days of discovery. Responsible parties shall remove the free product in a manner that minimizes the spread of contamination.

(b) Discharges and by-products from free product recovery and disposal operations shall be treated or disposed of in compliance with applicable local, state and federal regulations.

(c) Free product removal systems shall be designed to completely remove free product.

(d) Flammable products shall be handled in a safe and competent manner to prevent fires or explosions.

(e) Documentation of free product removal measures shall be submitted to the department with the initial site characterization report required under Env-Ws 412.08 that contains the following information:

- (1) The name of the person(s) responsible for implementing the free product removal measures;
- (2) The estimated quantity, type, and depth of free product layer observed or measured;
- (3) A description of the free product recovery system used;

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- (4) Whether any discharge of treated water takes place on-site or off-site during the recovery operation and where this discharge is located;
- (5) The type of treatment applied to any contaminated water pumped or extracted to effect free product removal;
- (6) The steps that have been or are being taken to obtain necessary permits for any discharge of treated water; and
- (7) The disposition of the recovered free product.

(f) The responsible party(ies) shall give verbal notification of the presence of free product which is identified at any stage of the investigation to the department immediately after discovery and shall give written notification within 5 days of discovery.

Env-Ws 412.08 Initial Site Characterization.

(a) Responsible parties shall conduct an initial site characterization unless the discharge and the contamination is completely removed and there is no impact or potential impact to groundwater or surface water, confirmed by soil and/or groundwater samples.

(b) If groundwater contamination is present, an initial site characterization shall not be required and the responsible party shall conduct a site investigation in accordance with Env-Ws 412.10.

(c) Responsible parties shall conduct field investigations to assess the contamination in the area of the discharge.

(d) Responsible parties shall sample the environment most likely to be contaminated by a confirmed or suspected discharge.

(e) Environmental samples collected at the site may be field screened with an

organic vapor analyzer but in all cases shall be analyzed at an EPA or a department certified laboratory.

(f) Responsible parties shall submit a site characterization report to the department within 60 days of notifying the department of the release.

(g) The site characterization report required pursuant to (f) above shall include the following:

- (1) Data on the nature, location, and estimated quantity of the discharge;
- (2) Data from available sources or other investigations concerning:

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- a. Surrounding populations;
  - b. Water quality;
  - c. Use and approximate locations of drinking water supplies potentially affected by the discharge;
  - d. Subsurface soil conditions;
  - e. Locations of underground utilities, drains, and sewers; and
  - f. Land use.
- (3) Documentation of free product removal; and
  - (4) A preliminary assessment of receptors and potential receptors.

Env-Ws 412.09 Investigation Due to Discovery of Discharges from Unknown Sources. When a discharge from an unknown source is discovered, the owner of any facility where facility is defined in RSA 146-A:2, IX, and means "a location, including structures or land, at which oil is subjected to treatment, storage, processing, refining, pumping, transfer, or collection" near the location of the discovery shall conduct an initial site characterization in accordance with Env-Ws 412.08

Env-Ws 412.10 Site Investigation.

(a) Upon completion of an initial site characterization, responsible party(ies) shall investigate the discharge, the discharge site, and the off-site surrounding area possibly affected by the discharge unless the initial site characterization establishes that:

- (1) No free product is present;
- (2) No contaminated soils are present; and
- (3) There is no present or potential groundwater or surface water impact from the discharge.

(b) The site investigation shall determine the location and full extent of contamination and identify receptors and potential receptors.

(c) A recoverable bench mark shall be established at the site and if a USGS bench mark is within 1,000 feet of the site, elevations at the site shall be recorded using national Geodetic Vertical Datum (NGVD).

(d) Responsible party(ies) shall submit a site investigation report in accordance with Env-Ws 410.22 to the department within 120 days of notification by the department  
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that the criteria of Env-Ws 412.10(a)(1-3) have not been met.

(e) The responsible party(ies) shall implement abatement measures in accordance with Env-Ws 412.06.

#### Env-Ws 412.11 Remedial Action Plan.

(a) Unless the site meets the site closure criteria of Env-Ws 412.18, Responsible parties required to conduct a site investigation under Env-Ws 412.10 shall submit a remedial action plan for responding to and remediating contamination. The remedial action plan shall be submitted to the department within 120 days following department approval of the site investigation report. The remedial action plan shall be prepared in accordance with the requirements of Env-Ws 410.23 (d).

(b) The plan shall provide for protection of human health and the environment, and recommended action to:

- (1) Remove, treat or contain the contamination source to prevent the additional release of contaminants to groundwater and to eliminate the health hazard associated with direct exposure to the contaminant source;
- (2) Contain and confine contaminated groundwater within the limits of a proposed groundwater management zone, delineated in accordance with the procedures of Env-Ws 410.26;
- (3) Restore groundwater quality to meet the quality criteria of Env-Ws 410.03; and



(4) Restore the soil quality to meet the soil cleanup standards of Env-Ws 412.13.

(c) The department shall approve the plan, upon determining that the plan meets all of the following remedial action plan criteria:

- (1) Human health and the environment shall be protected;
- (2) Groundwater quality criteria specified in Env-Ws 410.03 shall be met;
- (3) Sources of contamination shall be controlled so as to reduce or eliminate further releases of regulated contaminants to groundwater;
- (4) Contaminated soil shall be removed, treated or contained to reduce the

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health risk associated with the direct exposure via dermal contact, ingestion and inhalation to the contaminant soil;

(5) The existing risk shall be reduced to the greatest extent practicable, balancing costs and benefits by evaluating the risk to public health and the environment by the methods described in the American Society for Testing and Materials Standard E 1730-95 entitled "Guide for Risk-Based Corrective Action Applied to Petroleum Release Sites" dated November, 1995;

(6) Future risks of additional releases shall be reduced to the greatest extent practicable, balancing costs and benefits;

(7) Long-term management, including operation and maintenance of the remediation equipment or facility and site monitoring requirements, shall be minimized;

(8) Potential need for modification of the remedy shall be minimized;

(9) Resource value of groundwater impacted by the contamination, including current and anticipated future land use, shall be protected; and

(10) The responsible party shall have the financial ability to implement the remedy.

(d) Upon approval of the remedial action plan by the department, the responsible party(ies) shall implement the plan.

(e) The responsible party(ies) shall report the results of implementing the plan, including an evaluation of the effectiveness of the remediation, to the department in writing.

(f) Responsible party(ies) may, in the interest of minimizing contamination and promoting more effective remediation, begin remediation of soil, groundwater and surface water before the remedial action plan is approved by the department, provided they:

- (1) Notify the department in writing of their intent to begin remediation;
- (2) Incorporate these self-initiated remediation measures into the plan that is submitted to the department for approval; and
- (3) Comply with the requirements of all applicable local, state, and federal rules and statutes.

Env-Ws 412.12 Public Notification.

(a) Responsible party(ies) shall provide public notification in accordance with Env-Ws 410.20

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(b) If public notification is not made by the responsible party(ies), the department shall do so and all costs of public notification shall be paid by the responsible party(ies).

Env-Ws 412.13 Soil Cleanup Standards.

(a) Unless site-specific soil cleanup standards are developed in accordance with (c) below, generic soil cleanup standards shall apply to all petroleum contaminated soil which results from human operations or activities and which are located in non-enclosed areas.

(b) Generic soil cleanup standards shall be as set forth in Table 412-1 below:

Table 412-1  
Generic Soil Cleanup Standards

Regulated Contaminant	Standard
Acenaphthene	1,000 ppm
Acenaphthylene	1,000 ppm
Anthracene	1,000 ppm
Benzene	0.3 ppm
Benzo(a)anthracene	0.7 ppm
Benzo(a)pyrene	0.7 ppm
Benzo(b)fluoranthene	7 ppm
Benzo(k)fluoranthene	7 ppm
Chrysene	70 ppm
Dibenzo(a,h)anthracene	0.7 ppm
Dichloroethane, 1,2-	0.09 ppm

Ethylbenzene	90 ppm
Fluoranthene	810 ppm
Fluorene	510 ppm
Indeno(1,2,3-cd)pyrene	0.7 ppm
Isopropylbenzene	23 ppm
Methylnaphthalene, 2-	150 ppm
Methyl-t-butyl ether	3 ppm
Naphthalene	3 ppm
Toluene	100 ppm
Xylene	810 ppm
Alkylbenzenes Butylbenzene, n- Butyl benzene, sec- Butyl benzene, tert- Isopropyl toluene, 4- Propylbenzene, n- Trimethylbenzene, 1,2,4- Trimethylbenzene, 1,3,5-	Total 61 ppm
Non-Carcinogenic PAH Group Pyrene, Benzo (g,h,i) Perylene and Phenanthrene	Total 610 ppm
Total Petroleum Hydrocarbons	10,000 ppm

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(c) In lieu of standards in Table 412-1, the owner may develop site-specific soil cleanup standards by evaluating the risk to public health and the environment by the methods described in the American Society for Testing and Materials Standard E 1730-95 entitled "Guide for Risk-Based Corrective Action Applied to Petroleum Release Sites" dated November, 1995.

(d) Each site-specific evaluation shall:

- (1) Demonstrate that leaching of contaminants to groundwater will not result in violations of ambient groundwater quality standards as specified in Env-Ws 410.05; and
- (2) Demonstrate that no significant risk to human health, public safety and the environment exists at the site.

(e) In the evaluation of human health, a cumulative risk approach shall be used which compares site-specific information to a cumulative risk of an excess lifetime cancer risk of one in 100,000 and a cumulative non-cancer risk which is a hazard index equal to one.

Env-Ws 412.14      Soil Destined for Off-Site Treatment.

(a) Samples from stockpiled soils destined for off-site treatment shall be collected in accordance with Table 412-2 below.

Table 412-2  
Number of Composite Samples Required  
for  
Stockpiled Soil Destined for Off-Site Treatment

Amount of Soil (in Tons)	Number of Composite Samples
less than or equal to 4000	one for every 200 tons
greater than 4000	20 plus one additional for every 500 tons

(b) There shall be 8 core samples for each composite. At each core sample location, the first 12 inches of soil shall be removed. The core samples shall be taken from newly exposed soil and combined with the other required core samples.

(c) In-situ sampling of contaminated soil prior to excavation for soil destined for off-site treatment shall be performed in accordance with the following procedure:

(1) The minimum number of composite samples for in-situ soil sampling shall be determined by estimating the tonnage of contaminated soil and applying Table 412-2 above;

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(2) The number of borings or test pits shall be equal to the number of required composite samples.

(3) The total area to be excavated shall be divided into equal sections by the number of required borings/test pits.

(4) Each boring or test pit shall be located as near as possible to the center of each section;

(5) At least one boring/test pit shall be located in the most contaminated soil area;

(6) Composite samples from soil borings shall be comprised of core samples collected at no greater than 2-foot intervals from the contaminated soil column until contamination is no longer indicated by field observations and field screening methods or the approximate limits of the excavation have been attained;

(7) Contaminated soil from each test pit shall be temporarily stockpiled; and

(8) Composite samples shall be collected in accordance with Table

412-2 above.

(d) Unless certified as virgin petroleum contaminated soil in accordance with Env-Ws 412.16, the composite soil samples required in (a), (b), and (c) above shall be analyzed in accordance with Table 412-3 below:

Table 412-3  
Testing Requirements for Soils  
Destined for Off-site Treatment

Analysis Required	Analytical Method	Acceptable Limits
Ignitability	Ignitability Characteristic for Soil Samples (NHDES method)	Pass
Corrosivity	EPA method 9045	between 2 and 12.5 units
Reactive Sulfide	SW 846 7.3.4.1	Hazardous Waste Rules Env-Wm 403.05(b)(5)
Reactive Cyanide	SW 846 7.3.3.2	Hazardous Waste Rules Env-Ws 403.05(b)(5)
Volatile Organic Compounds	EPA methods 8240 or 8260	Hazardous Waste Rules Env-Ws 404
Semi-volatile Organic Compounds	EPA methods 8270 or 8310	Hazardous Waste Rules Env-Ws 404
Polychlorinated Biphenyls	EPA method 8080	less than 2 ppm
Total Petroleum Hydrocarbons	Total Petroleum Hydrocarbon Analysis(NHDES method)	Receiving facility limits
Arsenic	Preparation: EPA methods 1310 or 1311 Analysis: EPA methods 7060 or 6010	5 ppm
Barium	Preparation: EPA methods 1310 or 1311 Analysis: EPA Methods 7080 or 6010	100 ppm
Cadmium	Preparation: EPA methods 1310 or 1311 Analysis: EPA methods 7130 or 6010	1 ppm
Chromium	Preparation: EPA methods 1310 or 1311 Analysis: EPA Methods 7190 or 6010	5 ppm
Lead	Preparation: EPA methods 1310 or 1311 Analysis: EPA methods 7420 or 6010	5 ppm
Mercury	Preparation: EPA methods 1310 or 1311 Analysis: EPA Methods 7470 Cold Vapor	0.2 ppm
Selenium	Preparation: EPA methods 1310 or 1311 Analysis: EPA methods 7740 or 6010	1 ppm
Silver	Preparation: EPA methods 1310 or 1311 Analysis: EPA Methods 7760 or 6010	5 ppm
Endrin	EPA method 8080	0.02 ppm
Lindane	EPA method 8080	0.4 ppm
Methoxychlor	EPA method 8080	10 ppm
Toxophene	EPA method 8080	0.5 ppm

2,4-D	EPA method 8150	10 ppm
1,4,5-TP	EPA method 8080	0.1 ppm

(e) If the contaminated soils are certified as virgin petroleum contaminated soil in accordance with Env-Ws 412.16, composite soil samples required in (a), (b), and (c) above shall be analyzed for ignitability, volatile organic compounds and total petroleum hydrocarbons. If the contaminated soil quantities are less than 50 tons, sampling and analysis shall not be required.

(f) Soils which meet the acceptable limits listed in Table 412-3 may be treated at petroleum contaminated soil treatment facilities that are in compliance with all applicable federal, state and local regulations.

(g) Soils which do not meet the acceptable limits listed in Table 412-3 shall be managed in accordance with the hazardous waste rules, Env-Wm 100-1000.

Env-Ws 412.15      Soil Disposal and Reuse.

(a) Soils which meet the soil cleanup standards of Env-Ws 412.13 may be left in place or reused on site.

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(b) Soils which fail the generic soil cleanup standards but meet site-specific soil cleanup standards for direct exposure to the contaminated soil may be left in place or reused on site provided:

(1) The contaminated soil is located at least 2 feet below the surface of the ground or completely covered by at least 3 inches of pavement; and

(2) The responsible party records notice of the location and the level of contamination in the registry of deeds in the chain of title of the lot on which the contamination is located, and which indicates that any excavation, exposure and disposal of the contaminated material shall meet all requirements of the department.

(c) Soils which meet the soil cleanup standards of Env-Ws 412.13 may be disposed of or reused off-site at a solid waste disposal facility that is in compliance with all applicable federal, state and local regulations.

Env-Ws 412.16      Soil Certification.      Contaminated soils destined for off-site treatment shall be exempt from the testing requirement of Table 412-3 if the soil is certified as virgin petroleum contaminated soil in accordance with the following procedure:

(a) The site owner shall complete a summary of site ownership history and history of use and certify his/her knowledge that the soil is contaminated with only virgin petroleum

products;

(b) Department staff or the owner's environmental consultant shall observe the site and the soil to be certified and shall review the site history. If the site history reveals no known activity during the past 30 years which might cause the soil to be a hazardous waste, as specified in Env-Ws 100-1000, and all other certification requirements of this section are met, the soil shall be certified as virgin petroleum contaminated soil.

(c) Contaminated soil which is not generated from households or from underground storage facilities regulated under RSA 146-C shall be analyzed for the hazardous waste toxicity characteristic. One composite sample shall be collected in accordance with the number of core samples per composite specified in Table 412-4 below.

(d) The sample required pursuant to (c) above shall be analyzed in accordance with the following procedure:

(1) The sample shall be analyzed for volatile organic compounds using EPA method 8240 or 8260; and

(2) If the concentrations of benzene and 1,2 dichloroethane do not

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exceed 10 ppm and all other certification requirements of this section are met, the soil shall be certified as virgin petroleum contaminated soil; or

(3) The leachate from the toxicity characteristic leaching procedure extraction methodology, EPA method 1311, shall be analyzed for volatile organic compounds using EPA method 8240 or 8260; and

(4) If the concentration of benzene and 1,2 dichloroethane do not exceed 0.5 ppm and all other certification requirements of this section are met, the soil shall be certified as virgin petroleum contaminated soil.

(e) If the site history shows activities during the past 30 years which might have caused the soil to become contaminated with hazardous waste or listed hazardous constituents, one composite sample shall be collected in accordance with the number of core samples per composite specified in Table 412-4 below. The sample shall be analyzed in accordance with the analytical methods listed in Table 412-3 for the hazardous waste characteristics and constituents which may be present as indicated by the site history. If the concentration of contaminants do not exceed the acceptable limits

in Table 412-3 and all other certification requirements of this section are met, the soil shall be certified as virgin petroleum contaminated soil.

Table 412-4  
Number of Core Samples Required in Composite Sample  
for  
Certification of Petroleum Contaminated Soils

Amount of Soil (in Tons)	Number of Core Samples in Composite Sample
Less than 10	2
11-50	5
51-100	8
101-200	8
201-300	8
301-400	10
401-500	12
501-600	14
601-700	16
701-800	18
801-900	20
901-1000	22
1001-2000	36
2001-4000	64
4001-8000	120
8001-16000	232

Env-Ws 412.17     Soil Storage.

(a) Contaminated soil destined for off-site treatment or disposal may be temporarily stored at the site of origin for a period not to exceed 4 months. Sites other than the site of origin may be used for the 4 month temporary storage if the responsible party(ies) receives prior written approval from the department.

(b) Department approval shall be granted if the following conditions are met;

- (1) The responsible party received written approval from the local authorities.
- (2) The responsible party received written approval from the owner of the property that will receive the contaminated soil.



(c) Contaminated soil shall be stored on a petroleum-impermeable liner. An impervious cover shall completely and securely cover the stockpiled soil in order to minimize fugitive volatile organic compounds and dust emissions and leaching effects of precipitation. Fluids from saturated soils shall be contained with sorbent booms or earthen dikes.

(d) The soil pile shall only be uncovered when contaminated soil is being added to or withdrawn from the pile.

(e) Fencing to restrict public access to the storage area shall be required when any of the following soil concentrations are exceeded:

- (1) For benzene, 165 ppm;
- (2) For toluene, 8,300 ppm;
- (3) For ethylbenzene, 2,750 ppm; and
- (4) For xylene, 55,000 ppm.

Env-Ws 412.18      Site Closure Criteria.      Additional investigation, remedial measures or groundwater monitoring shall not be required by the department if:

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(a) Health hazards associated with direct exposure via inhalation, ingestion and dermal contact to contaminants have been eliminated;

(b) Sources of groundwater contamination have been eliminated;

(c) On-site and off-site dissolved contamination levels are below ambient groundwater quality standards as specified in Env-Ws 410.05; and

(d) The strict liability requirements for the cost of containment, cleanup and removal under RSA 146-A:3-a have been met.

Env-Ws 412.19      Waivers.

(a) The rules contained in Env-Ws 412 are intended to apply to a variety of conditions and circumstances. It is recognized that strict compliance with all rules prescribed herein may not fit every conceivable situation. Responsible party(ies) may request a waiver of specific rules contained in Env-Ws 412 in accordance with (b) below.

(b) All requests for waivers shall be submitted in writing to the department and

shall include the following information:

- (1) A description of the facility or site to which the waiver request relates, including name, address, and the department site number;
- (2) A specific citation of the rule for which a waiver is being sought;
- (3) A full explanation of why a waiver is necessary and demonstration of hardship caused if the rule is adhered to;
- (4) A full explanation of the alternative(s) to the rule(s) for which a waiver is sought, with backup data for support; and
- (5) A full explanation of how the alternative(s) shall be consistent with the intent of RSA 146-A, and would adequately protect human health and the environment.

(c) The department shall approve a request for a waiver upon finding that the alternatives proposed are at least equivalent to the requirements contained in this rule, are adequate to ensure that the provisions of RSA 146-A are met, and human health and the environment shall be protected.

(d) No waiver shall be granted which, in the judgment of the department, contravenes the intent of any rule.

(e) The department shall issue a written response to a request for a waiver within 60 days of receipt of the request.